

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (Agreement) is entered into between L.H, by his parents, G.H. and D. H, as well as G.H. and D.H. individually (hereinafter Plaintiffs) and the Tennessee Department of Education (hereinafter TDOE), for the purpose of resolving a dispute arising out of, and including but not limited to, all claims against TDOE in the complaint Plaintiffs filed in the U.S. District Court for the Eastern District of Tennessee styled, *L.H., a Minor Student, by and through his parents G.H. and D.H. and G.H. and D. H., individually v. Hamilton County Department of Education and the Tennessee Department of Education*, 1:14-CV-00126-CLC-SKL – U.S. District Court for the Eastern District (Lawsuit). This Settlement Agreement and Release does not include any claims that have been, or may be, asserted against the Hamilton County Department of Education.

WHEREAS, the claims asserted by Plaintiffs against TDOE are in dispute; and

WHEREAS, the parties mutually wish to avoid further litigation costs and to resolve this dispute; and

WHEREAS, the parties have consulted with counsel concerning the claims that have been asserted and the provisions of this Agreement;

NOW, THEREFORE, for and in consideration of the mutual agreements, representations, covenants, and warranties recited herein, the parties agree as follows:

1. Consideration/Release/Covenant Not to Sue

(a) TDOE agrees to pay the sum of \$185,000.00 (one-hundred, eighty-five thousand dollars) to Plaintiffs in compromise and settlement of all claims against TDOE, including but not limited to the claims asserted against TDOE in the Lawsuit. Plaintiffs agree to accept TDOE's payment of \$185,000.00 (one-hundred, eighty-five thousand dollars) as full accord and satisfaction and hereby release all of their claims against TDOE, including but not limited to all claims for declaratory and injunctive relief, monetary loss, actual and compensatory damages, treble or punitive damages, attorneys' fees, costs, interest and any other relief sought or available against TDOE.

(b) Plaintiffs and TDOE will move the District Court to approve settlement for the minor Plaintiffs in contemplation that the funds will be used and paid as follows:

(i) To L.H. via Special Needs Trust:

a. \$65,000 for alleged emotional distress damages;

(ii) To [REDACTED] and [REDACTED]:

a. \$15,000 to reimburse parents for the litigation costs of three experts to date (Dr. Buckley, Dr. Whitbread, and Ms. Bomgaars);

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b. \$60,000 to reimburse parents for attorneys fees paid to date;

(iii) **To Gilbert Russell McWherter Scott & Bobbitt, PLC:**

a. \$45,000 for additional attorneys fees incurred to date.

(c) Plaintiffs forever settle, release, compromise, reach accord and satisfaction, waive, remise, discharge, and acquit TDOE and each of their agents, successors, representatives, assigns, current and former employees in their official and individual capacities, insurers and attorneys on each and every claim that exists as of the effective date of this Agreement, whether known or unknown, or which Plaintiffs at any time hereafter may have against TDOE as of the execution of this Agreement, including but not limited to those claims made or that could have been made in the Lawsuit. Plaintiffs further release and hold TDOE harmless from any determination, order, or judgment it might receive in any subsequent adjudication or appeal with any remaining parties in this matter.

(d) Plaintiffs represent that they have not filed and agree not to file or cause to be filed against TDOE any other lawsuit, complaint, or charge, or seek any damages, remedies, or other relief with respect to any claim that this Agreement intends to waive. Plaintiffs further agree through their counsel to take all action necessary to dismiss the Lawsuit against TDOE with prejudice upon TDOE's payment of the consideration set forth in paragraph 1(a) above.

(e) The parties agree and represent it is their intent that TDOE's payment of \$185,000 (one-hundred, eighty-five thousand dollars) represents the entire amount TDOE is obligated to pay in this Lawsuit, regardless of whether any subsequent adjudication or appeal with any remaining parties results in a determination, order, or judgment that TDOE is liable for any other amount. Accordingly, by accepting the payment of \$185,000 (one-hundred, eighty-five thousand dollars), Plaintiffs agree to release and hold TDOE harmless for any portion of any subsequent determination, order, or judgment that may be deemed the responsibility of TDOE in the event Plaintiffs prevail on any of their remaining claims against any other defendants in the Lawsuit.

2. **No Admission of Liability.** It is understood and agreed that this settlement is in compromise of disputed claims, and that this Agreement shall not in any way be construed as an admission by TDOE of any violation of any federal, state, or local statute, law, or regulation, or a violation of any right of Plaintiffs or any other person by TDOE. Nor shall be it construed as an admission by TDOE of any liability based on any ruling previously entered into this case.

3. **Tax Liability.** Plaintiffs agree that to the extent that any federal or state taxes of any kind may be due or payable as a result of the payments made to them as set forth in paragraph 1(b) above, they will be responsible for the payment of any taxes for which they are legally responsible and will indemnify and hold TDOE harmless in the event of any claim against it for payment of taxes owed by them.

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4. **Voluntary Agreement.** Plaintiffs have read all of the terms of this Agreement and understand that this Agreement forever releases TDOE from any legal action against them for any and all claims made or that could have been made in the Lawsuit up to the date of the execution of this Agreement. Plaintiffs and TDOE acknowledge that they have been advised to consult with their attorneys before signing and that they sign this Agreement of their own free will and in exchange for the consideration to be provided. Plaintiffs and TDOE declare that they are competent to execute this Agreement.

5. **Miscellaneous.**

(a) This is the entire agreement between the parties and it takes the place of any prior agreement, representation, or promise, except as identified in this Agreement. If any provision of this Agreement is found to be unenforceable, all other provisions will remain enforceable.

(b) The parties agree to keep the negotiations of settlement that preceded this Agreement confidential unless otherwise required by law. The Parties agree that they shall not in public or print disparage each other.

(c) Pursuant to Tenn. Code Ann. § 20-13-103, the State's acceptance of the terms of this Agreement is contingent upon approval by appropriate State officials, including, but not limited to, the Attorney General, the Comptroller and the Governor.

(d) This Agreement may be executed in counterparts, each of which shall be deemed an original.

(e) This Agreement shall be governed by the laws of the State of Tennessee.

WHEREFORE, Plaintiffs and TDOE enter into this Agreement by affixing their signatures below.

Date:

08/18/2015

L.H., by his parents, G.H. and D.H.

Date:

8-18-15

G.H.

Date:

08/18/2015

D.H.

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Date: 8/13/15

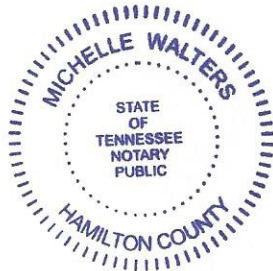
By: Candice McQueen
Candice McQueen, Commissioner of the
Tennessee Department of Education

STATE OF TENNESSEE:

COUNTY OF HAMILTON:

Personally appeared before me, Michelle Walters,
a notary public for the county and state aforesaid, [REDACTED] with whom I am personally
acquainted (or proved to me on the basis of satisfactory evidence) and who made oath in due
form of law that he executed the answers to the above interrogatories and that the answers are, to
the best of his knowledge and belief, true.

WITNESS my hand and seal at this office in Tennessee, Hamilton County,
Tennessee, this 18 day of August, 2015.



Michelle Walters
Notary Public

My commission expires **My Commission Expires**
June 25, 2017

STATE OF TENNESSEE:

COUNTY OF HAMILTON:

Personally appeared before me, Michelle Walters,
a notary public for the county and state aforesaid, [REDACTED], with whom I am
personally acquainted (or proved to me on the basis of satisfactory evidence) and who made oath
in due form of law that he executed the answers to the above interrogatories and that the answers
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WITNESS my hand and seal at this office in Tennessee Hamilton County,
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June 25, 2017